

REMARKS

Applicant respectfully notes that the finality of the current Office Action is improper. The claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilk in view of Chow. However, the patent to Wilk is newly cited. Wilk has never been used to support any prior rejections, and Applicant made no amendments that would necessitate making the current Office Action final. Therefore, Applicant respectfully requests that the Examiner withdraw the finality of the current Office Action.

The Examiner rejected claim 5 under 35 U.S.C. § 103 over Wilk in view of Chow. In response, Applicant has amended claim 5 to include the subject matter of (now cancelled) claim 6 and respectfully traverses the rejection. Claim 5 now recites, "transmitting to a base station an identification of the selected pre-recorded message to the wireless communications system over the control channel, the identification comprising a plurality of bits in a registration frame that identifies the selected pre-recorded message to be played back to the caller." Thus, the identification sent to the base station over the control channel is required to have a specific structure. Particularly, the Registration Frame (RFR) according to claim 5 must include a plurality of bits that identify the pre-recorded message that will be played back to the caller.

The Examiner admits that Wilk fails to teach or suggest using a control channel to transmit the identifier and thus, cannot teach or suggest transmitting a plurality of bits in a RFR. In fact, the patent to Wilk is devoid of anything that even suggests the transmission structure of the identifiers. Chow discloses using a control channel, but never mentions anything that would suggest using a particular structure to transmit the call handling codes to the system. Indeed, Chow never discloses transmitting the code as a plurality of bits in a RFR to the base station. There is no indication whatsoever in either reference of how the codes are structured and sent to their respective systems, and the Examiner never asserts that there is.

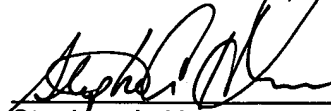
Nevertheless, the Examiner rests only on the naked assertion that, "since the return selection is transmitted over the control channel as disclosed by Chow ..., it would have been

obvious ... that a registration frame would be used for transmitting such selection." *Current Office Action*, p. 3, ¶2. In other words, the Examiner is asserting that because Chow uses a control channel, Chow must transmit as required by claim 5. Respectfully, this conclusory statement is not supported by the references. Simply because Chow teaches using a control channel does not mean that Chow transmits the codes as a plurality of bits in an RFR. The Examiner does not provide any evidence that either Wilk or Chow teach or suggest that the codes comprise a plurality of bits sent to the base station in a particular frame (i.e., the RFR), but rather, merely makes an unsupported assertion. However, unsubstantiated assertions are not now, and have never been, a *legally sufficient* motivation to combine. Neither reference teaches or suggests transmitting the identifiers as a plurality of bits in a RFR, and thus, fail to teach or suggest claim 5 alone or in combination. Accordingly, Applicant respectfully requests the allowance of claim 5, and its dependent claims 7-12.

The Examiner also rejected claim 13 citing the same references and reasoning as stated above for claim 5. However, Applicant has amended claim 13 to include the subject matter of (now cancelled) claims 14 and 15. As such, claim 13 now contains language similar to that of claim 5. Thus, for the reasons stated above, neither Wilk nor Chow teach or suggest, alone or in combination, amended claim 13. Accordingly, Applicant respectfully requests the allowance of claim 13 and its dependent claims 16-23.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



Stephen A. Herrera
Registration No.: 47,642

Dated: December 14, 2004

P.O. Box 5
Raleigh, NC 27602
Telephone: (919) 854-1844